

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

LUCILA S. MARIANO,

Plaintiff,

v.

ONEWEST BANK, FSB, et al,

Defendants.

No. C 10-3213 MMC

**ORDER GRANTING APPLICATION TO  
PROCEED IN FORMA PAUPERIS;  
DISMISSING COMPLAINT FOR LACK  
OF SUBJECT MATTER JURISDICTION;  
AFFORDING PLAINTIFF LEAVE TO  
AMEND**

Before the Court is plaintiff Lucila S. Mariano's complaint, filed January 30, 2013, against defendants OneWest Bank, FSB and NDeX West, LLC.<sup>1</sup> <sup>2</sup> As discussed below, however, said pleading fails to allege sufficient facts to support the court's jurisdiction, and, consequently, the above-titled action is subject to dismissal. See Fed. R. Civ. P. 12(h)(3) (providing "[i]f the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action").

Plaintiff alleges this Court has subject-matter jurisdiction pursuant to 28 U.S.C. § 1332, which provides federal district courts with diversity jurisdiction over suits "between . . . citizens of different States." See 28 U.S.C. § 1332(a). A corporation is a citizen of both the "state by which it has been incorporated and of the state . . . where it has its principal

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<sup>1</sup> On April 3, 2013 the matter was reassigned to the undersigned.

<sup>2</sup> On January 30, 2013, plaintiff also filed an application to proceed in forma pauperis. As it appears plaintiff is unable to pay the costs of this action, her application is hereby GRANTED.

1 place of business." 28 U.S.C. § 1332(c)(1). Although plaintiff alleges she is a citizen of  
2 California (see Compl. ¶ 3) and that each defendant is incorporated in Texas (see Compl.  
3 ¶¶ 1-2), there is no allegation identifying the principle place of business for each of the  
4 defendants. Consequently plaintiff has failed to allege sufficient facts to support a finding of  
5 subject matter jurisdiction.

6 Accordingly, the complaint is hereby DISMISSED for lack of subject matter  
7 jurisdiction, and plaintiff is hereby afforded leave to amend to allege, if she can do so,  
8 sufficient facts to support the Court's exercise of jurisdiction over the above-referenced  
9 lawsuit. Plaintiff's amended complaint, if any, shall be filed no later than April 26, 2013.

10 **IT IS SO ORDERED.**

11 Dated: April 10, 2013

  
MAXINE M. CHESNEY  
United States District Judge

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